



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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Suite 200  
San Antonio, TX 78212

**MAR - 5 2015**

RE: MUR 6919 (formerly AR 14-03)  
Jorge Canseco  
Inmuebles Caza, S.A. de C.V.  
Canseco Investments, Ltd.

Dear Mr. Pauerstein:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that your clients, Jorge Canseco, Inmuebles Caza, S.A. de C.V., and Canseco Investments, Ltd. violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 3, 2015, the Commission found reason to believe that Jorge Canseco and Inmuebles Caza violated 52 U.S.C. § 30121 (formerly 2 U.S.C. § 441e) a provision of the Act. On that same date, the Commission also determined to take no action against Canseco Investments, Ltd. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) (formerly 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A)), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law. Enclosed is a conciliation agreement for your consideration.

If your clients are interested in engaging in pre-probable cause conciliation, please contact Peter Reynolds or William Powers, the attorneys assigned to this matter, at (202) 694-1650 or (800) 424-9530, within five days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within a reasonable period. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

We look forward to your response.

On behalf of the Commission,



Chair  
Ann M. Ravel

Enclosures

Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Jorge Canseco

MUR 6919

Inmuebles Caza, S.A. de C.V.

**I. INTRODUCTION**

This matter was generated in the normal course of carrying out its supervisory responsibilities under the Federal Election Campaign Act of 1971, as amended (the "Act"). On November 3, 2014, the Commission approved its Final Audit Report regarding the Canseco for Congress's (the "Committee's") activity from January 1, 2009 through December 31, 2010 ("Audit Report").<sup>1</sup> The Audit Report included the following finding that the Audit Division referred to the Office of the General Counsel ("OGC") for possible enforcement action: the Committee received two prohibited foreign national contributions totaling \$100,000 from Inmuebles Caza, S.A. de C.V., ("Caza"), a corporation organized in Mexico.

OGC notified Respondents of the Referral and gave them an opportunity to respond. Caza and Jorge Canseco (Francisco Canseco's brother and one percent owner of Caza) filed a joint response, but it did not present additional substantive arguments beyond those previously presented and considered by the Commission during the audit process.<sup>2</sup> Therefore, based on the discussion below and the analysis and findings set forth in the Audit Report, which is herein incorporated by reference, the Commission finds reason to believe Inmuebles Caza, S.A. de C.V.

<sup>1</sup> See Final Audit Report of the Commission on Canseco for Congress at 7 (January 1, 2009 – December 31, 2010), Attachment 1.

<sup>2</sup> With regard to the alleged foreign national contributions, Caza's joint response reiterated two points that were rejected by the Commission during the audit process: (1) that the funds transferred from Caza to the candidate were the candidate's personal funds, and (2) that Caza is not a "truly foreign corporation" because it is held by an American partnership. Caza Resp. at 1-2.

1 violated 52 U.S.C. § 30121 (formerly 2 U.S.C. § 441e) by making a \$100,000 prohibited foreign  
2 national contribution and Jorge Canseco violated 52 U.S.C. § 30121 (formerly 2 U.S.C. § 441e)  
3 by knowingly providing "substantial assistance" in the solicitation, making, accepting, or receipt  
4 of a contribution from a foreign national.

## 5 II. FACTUAL AND LEGAL ANALYSIS

6 The Act and Commission regulations prohibit foreign nationals from making  
7 contributions in connection with an election and any person from knowingly providing  
8 "substantial assistance" in the solicitation, making, accepting, or receipt of a contribution from a  
9 foreign national.<sup>3</sup> For foreign national contributions, the Commission specifically defines  
10 "knowingly" as (i) having actual knowledge that the source of funds is a foreign national, (ii)  
11 being aware of facts that would lead a reasonable person to conclude that there is a substantial  
12 probability that the source of funds is a foreign national, or (iii) being aware of facts that would  
13 lead a reasonable person to inquire whether the source of funds is a foreign national, and failing  
14 to conduct a reasonable inquiry.<sup>4</sup>

15 On January 29, 2010, and April 13, 2010, the Committee accepted receipts in the  
16 amounts of \$14,000 and \$86,000, respectively. The Committee asserts that these receipts were  
17 loans from the personal funds of the candidate.<sup>5</sup> The audit determined, however, that the source

<sup>3</sup> 52 U.S.C. § 30121 (formerly 2 U.S.C. § 441e); 11 C.F.R. § 110.20(g), (h).

<sup>4</sup> 11 C.F.R. § 110.20(a)(4). As the Commission has explained, in addition to section 110.20(a)(4)(i), which established actual knowledge, sections 110.20(a)(4)(ii), (iii) establish two additional *mens rea* standards: a "'reason to know' standard under which a person should have acted as though a fact existed until it could be proven otherwise" or a "willful blindness, which is applicable to situations in which a known fact should have prompted a reasonable inquiry, but did not." See Explanation and Justification: Contributions and Limitations, 67 Fed. Reg. 69,928, 69,941 (Nov. 19, 2002).

<sup>5</sup> Audit Rpt. at 8-10. The \$14,000 receipt was not disclosed on the Committee's reports, and the \$86,000 receipt was reported by the Committee as a loan from the personal funds of the candidate. *Id.* at 7.

1 of these funds was Caza, a foreign national corporation registered in Mexico.<sup>6</sup> Therefore, the  
2 Commission finds reason to believe that Caza violated 52 U.S.C. § 30121 (formerly 2 U.S.C. §  
3 441e) by making a prohibited contribution from a foreign national.

4 The available information also reflects that Jorge Canseco knowingly provided  
5 “substantial assistance” in the making, accepting, or receipt of a contribution from a foreign  
6 national. The Commission has explained that “substantial assistance” means active involvement  
7 in the solicitation, making, receipt or acceptance of a foreign national contribution or donation  
8 with an intent to facilitate successful completion of the transaction, and does not include “strictly  
9 ministerial activity undertaken pursuant to the instructions of an employer, manager or  
10 supervisor.”<sup>7</sup> According to his affidavit, Jorge Canseco, as president and part owner of Caza,  
11 participated in setting the terms for making two disbursements to Francisco Canseco from Caza’s  
12 bank account in January and April 2010.<sup>8</sup> Therefore, the Commission finds reason to believe  
13 Jorge Canseco violated 52 U.S.C. § 30121 (formerly 2 U.S.C. § 441e).

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<sup>6</sup> See *id.* at 5-10.

<sup>7</sup> See Explanation and Justification: Contributions and Limitations, 67 Fed. Reg. 69,928, 69,941 (Nov. 19, 2002)

<sup>8</sup> Caza Resp., Affidavit of Jorge Canseco ¶¶ 6-8, 11, 15.